

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
May 25, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Bigelow, Forman, Conze, Kenny

STAFF ATTENDING: Ginsberg, Keating

Mr. Damanti read the first agenda item:

Continuation of Public Hearing regarding Subdivision Application #604, Dana Arnold, 45 Phillips Lane. Proposing to demolish the existing residence and subdivide the existing 1.23-acre property into three lots and an open space parcel. The subject property is located on the southwest side of Phillips Lane, approximately 1,120 feet west of its intersection with Hoyt Street, and is shown on Tax Assessor's Map #25 as Lot #113, R-1/3 Zone.

Mr. Damanti noted that this is a continuation of the public hearing from April 27, 2004. Attorney Roger Pearson was present on behalf of the applicant and explained the revised proposal to address the previously expressed concerns at the last public hearing on this matter. Engineer Craig Flaherty of Redniss & Mead said that he wanted to make one correction. He checked with the Tax Assessor's records on the new 2,900-3,700 square foot houses on the former DeLeo property which is the adjacent subdivision to this proposed subdivision. He said of the 72 properties on Phillips Lane and Lake Drive, 38 lots are less than one-third of an acre in size. He explained that Munson Builders are the contract purchasers and the houses will be "stick built" not modular homes. They will be approximately 4,000 to 4,400 square feet in size. He then submitted a brochure from Munson Builders.

Mr. Flaherty then submitted a map/hand-out of the plan highlights. This plan reduces the setback on the two new interior side lot lines to eight feet. They will be reducing the lot sizes on the lots and reducing the minimum square and lot width of the lots. He submitted a map showing the density comparison with the conventional subdivision on the DeLeo property nearby. He said that under the conventional subdivision there could be a 10 foot side yard next to each neighbor of this subdivision. He believed that three smaller houses with a total of 60 foot side yards is better than having two larger houses with only a total of 50 foot side yard setbacks.

Mr. Flaherty explained that there is a landscaping plan to provide evergreen screening for the adjacent property owners. He then summarized by noting from the last public hearing there has been a change in the minimum square, in the minimum lot size of the lots, and added landscaping. He suggested that if the lots do need to comply with conventional subdivision, then he suggested shifting one or two of the buildable areas of those lots to the rear. Under the conventional subdivision, 14 percent of the property would be open space, and under the conservation subdivision 30 percent would be set aside for open space. He suggested a proposed combination of two side yards would be only 20 feet rather than the 25 feet required. Mr. Conze said that if they keep the lot configuration and kept 25 feet total of two side yards, then the houses would be more in keeping

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with the neighborhood. Mr. Flaherty said that the conservation subdivision allows more flexibility of design. Mr. Kenny noted that the adjacent DeLeo subdivision was a conventional R-1/3 acre subdivision.

Mr. Bob Musitano of 42 Phillips Lane then spoke. He said that the conventional subdivision with only 14% open space would be too crowded and too tight for the neighborhood. Mr. William Kirk of 49 Phillips Lane said that he is speaking on behalf of the owner of his house which is his wife. He said that there are 43 houses on Phillips Lane and they average only 2,036 square feet. He said that there are only 4 houses greater than 4,000 square feet on Phillips Lane and, according to the DeLeo subdivision, those 4 houses have average 3,333 square feet. Mr. Kirk said that the Fresh Meadows Lane houses average 3,600 square feet but are influenced by the 5,700 square foot former garage/stable which is the farthest away from the proposed subdivision. He cautioned that if the Commission approves only two lots then they would be bigger and only 10 feet potentially from the proposed property line. He suggested that if the Commission was inclined to approve this project, there should: only be two houses rather than three; the houses should be at least 15 feet from the neighboring property owners; there should be limits on the height of the houses to 26 feet due to the extreme high grade of the site relative to the neighboring lots, and he believed that the Commission could control the height under a conservation subdivision; that there should be a common driveway for the two houses; and the Commission should restrict the total of the first and second floor of the houses to not more than 3,600 square feet.

Ms. Jackie Blummer of 9 Fresh Meadows Lane said that the existing houses are much smaller than what is proposed. There is a severe slope at the rear of the site which limits the developable area or requires considerable regrading and/or filling of the property. This could impact the nearby wetlands. She claimed that the proposal as submitted is not in character with the neighborhood. She explained that if they want three houses they should be smaller than 4,000 square feet each.

Mr. Spain said there has been a careful, professional preparation of this formal application which gives much more detail and is better than the informal presentation of earlier this year. At the informal discussion earlier this year, the size and scale and character of the houses in the neighborhood was not known. The Commission now has better information before it.

Mr. Tom Kelly of 31 Phillips Lane said that this is a nice neighborhood and that 4,400 square foot houses just do not fit in with the neighborhood. He believed that regular setbacks should be used to get more side yards and reasonably sized houses. Mr. Kirk asked about the potential split rail fence to set aside the open space. He asked who would maintain it. Mr. Damanti responded that if the Commission approved this project and required a split rail fence, they would also dictate in their Resolution who would be required to maintain that fence. Mr. Matthew Bickford of 15 Phillips Lane said that about nine other neighbors also opposed this application.

There being no other comments from the neighbors or Commission members, Mr. Kenny made a motion to close the public hearing on this matter. That was seconded by Mr. Conze and unanimously approved.

Mr. Damanti read the next agenda item:

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Special Permit Application #73-B, Coastal Site Plan Review #192, Flood Damage Prevention Application #204, Darien Boat Club, Pear Tree Point Beach, 135 Pear Tree Point Road.

Proposing to expand the existing deck on the south and west sides of the locker house and perform related site development activities within regulated areas. The subject property is located on the west side of Pear Tree Point Road, approximately 300 feet south of its intersection with Crane Road, and is shown on Tax Assessor's Map #60 as Lot #45, R-1 Zone.

Mr. Damanti recused himself from this application because he has represented the Boat Club in the past. He then left the room and Mr. Conze acted as Chairman on this matter. Mr. Ginsberg summarized the application by noting that the Darien Boat Club is a private, non-profit club serving town residents. He explained that the Planning & Zoning Commission issued a Mandatory Referral report on the lease of the property. The Board of Selectmen will be meeting at the site tomorrow to review the details of the lease. He said that the Commission could continue the public hearing to next week in order to get any input from the Board of Selectmen. Commodore Tom Williams and Michael Cassone, P.E. were present to discuss the application. They said there are now slips for 235 members plus kayaks and canoe racks. The existing deck is approximately 800 square feet and they propose to double the size of the deck. This will provide better and safer access and handicapped access. The Boat Club by-laws say that the Boat Club is for residents of Darien only and they now have 700 members and a waiting list. Last year there were 10 turnovers of the 235 slips. It was noted that one must be a member in order to buy gas.

Mr. Bigelow made a motion to continue the public hearing on this matter to June 1, 2004 at 8:00 p.m. in Room 206 of Town Hall. That motion was seconded by Ms. Forman and unanimously approved.

Mr. Damanti then returned to the meeting and read the next agenda item.

Continuation of Public Hearing regarding Land Filling & Regrading Application #119, William & Trish Coleman, 134 Nearwater Lane. Proposing to fill and regrade portions of property associated with the construction of a new driveway, in-ground swimming pool and spa with patio, and an addition to existing residence and perform related site development activities. The subject property is located on the east side of Nearwater Lane, approximately 125 feet south of its intersection with Juniper Road, and is shown on Tax Assessor's Map #57 as Lot #22, R-1 Zone.

He explained that this public hearing had been continued from April. Mr. Nicholas Nelson of Glen Gate Company was present on behalf of the applicant. He explained that they have redesigned the driveway to reduce the amount of the pavement on the southeast side of the property. They have eliminated the stone turrets on the house and the second curb cut in the front yard. They have modified the regrading in the rear of the property and reduce the pool size and removed the spa entirely. They have also increased the grass area in the back yard. They will be adding to the house towards the front of the property, but they have drastically reduced the regrading in the front of the house and near the street. Mrs. Nera of 1 Juniper Lane said that the house before the Commission this evening is bigger than it was at the public hearing last month. Mr. Ginsberg noted that the house addition is in full compliance with the Darien Zoning Regulations. He said that the amount of filling and regrading has been minimized and reduced.

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There being no other comments from Commission members, neighbors or the applicant, Ms. Forman made a motion to close the public hearing on this matter. Mr. Bigelow seconded that motion which was unanimously approved, and the public hearing was then closed at 9:10 p.m.

Mr. Damanti then read the next agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #187-A, Flood Damage Prevention Application #205, Land Filling & Regrading Application #107-A, Richard & Robin Woods, 137 Five Mile River Road. Proposing to construct a stone and masonry retaining wall and place approximately 95 cubic yards of fill behind it and perform related site development activities within regulated areas. The subject property is located on the east side of Five Mile River Road, approximately 1150 feet south of its intersection with Davis Lane, and is shown on Tax Assessor's Map #67, as Lot #5 in the R-1/2 Zone.

Jeff McDougal of William W. Seymour & Associates was present on behalf of the applicant. He explained that they are proposing a retaining wall to stop erosion near the water. He explained that the EPC had discussed this matter last week and they are now reviewing the planting plan. He expects a decision from the EPC on June 2, 2004. He noted that the extension to the wall has already been granted. He noted that John Gaucher of the State of Connecticut DEP sent an e-mail dated April 27th, but has still not formally commented on the application. Mr. McDougal also noted that the DEP comment is advisory only. He said that the DEP asked him to look at alternatives, and he has done so but none of them are feasible. In order to leave the public hearing open to receive final EPC approval, Mr. Bigelow made a motion to continue the public hearing to June 22, 2004 at 8:00 p.m. in Room 206 of Town Hall. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti noted that the Browne-Zak application had been withdrawn.

Coastal Site Plan Review #193, Patricia Browne-Zak, 16 Five Mile River Road. Proposing to clean up and stabilize property, remove trees, place riprap boulders along bank, replant site, set a dry laid patio, and perform related site development activities within a regulated area. The subject property is located on the east side of Five Mile River Road, approximately 600 feet south of its intersection with Tokeneke Road, and is shown on Tax Assessor's Map #66 as Lot #4, R-1/2 Zone. *POSTPONED.*

He then read the next agenda item.

Special Permit Application #236, William & Carol Layfield d/b/a Melting Pot, Darien; 14 Grove Street. Proposing to establish a restaurant within a portion of the three-story building within the Grove Street Plaza project. The subject property is on the north side of Grove Street 30 feet northeast of its intersection with Brook Street, and is shown on Tax Assessor's Map #73, as Lot #22, in the CBD Zone.

Attorney William Hennessey and proposed business operator, Wil Layfield, were present to discuss the application. Mr. Hennessey noted that the proposal is to establish a fondue restaurant on the first floor of one of the two Grove Street project buildings. Mr. Hennessey noted that the Commission approved the site plan in March 2003 for two new buildings. They propose to go into the larger building on the right which is 14 Grove Street. They propose to have 144 seats and all cooking will

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be done at the tables. There will also be a lounge waiting area at the bar with some seating. There is approximately 4,000 square feet on the ground floor, and they propose to have 1,200 to 1,300 square feet of storage in the basement. There will be no food preparation in the basement. The trash dumpster is in an enclosed area on the north side of this building near the loading area. They will not have a very large kitchen but it will have large vents. This restaurant will not be open at lunch, which Mr. Hennessey noted is a great complement to the area due to the existing parking situation. The proposed hours of operation are 5:00 p.m. to 10:00 p.m. Monday through Thursday; 5:00 p.m. to 11:00 p.m. Friday and Saturday; and 2:00 p.m. to 9:00 p.m. on Sundays. There is no outdoor seating proposed as part of this application. There will be 144 dining seats plus 20 seats in the lounge. There were no comments from neighboring property owners or Commission members. Mr. Conze then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #194, Flood Damage Prevention Application #6-A, Land Filling & Regrading Application #120, Robert & Debra Lee, 8 North Road. Proposing to raze the existing residence and construct a new residence and associated septic system and perform related site development activities within regulated areas. The subject property is located on the southeast side of North Road, approximately 410 feet north of its intersection with Butler's Island Road, and is shown on Tax Assessor's Map #67 as Lot #74, R-1 Zone.

Mr. Damanti opened the public hearing on the matter and a motion was made by Mr. Kenny to continue the public hearing to June 22, 2004 at 8:00 p.m. in Room 206 of Town Hall. That motion was seconded by Mr. Bigelow and unanimously approved by the Commission.

At 9:30 p.m. Mr. Damanti then read the next two agenda items:

Special Permit Application #60-F, Country Club of Darien, 300 Mansfield Avenue. Proposing to reconstruct the "halfway house"; construct new staff housing; create a pool pavilion and terrace; renovate and enlarge the clubhouse kitchen; construct maintenance sheds; and perform related site development activities.

Special Permit Application #60-G, Flood Damage Prevention Application #208, Land Filling & Regrading Application #121, Country Club of Darien, 300 Mansfield Avenue. Proposing to excavate and enlarge existing pond, and place fill in two upland locations within the golf course, and perform related site development activities within a regulated area.

Mr. Damanti then recused himself because he shares office space with the attorney for the applicant, Mr. Pierson. Mr. Damanti then left the meeting. It was agreed that the Public Hearing on Special Permit Application #60-G for the pond excavation/enlargement would proceed first.

Attorney Steve Pierson explained that the EPC has jurisdiction over work near the pond. This work was approved by the EPC as well as the State of Connecticut Department of Environmental Protection (DEP). He then submitted a copy of those approvals for the record. Don Ferlow of Stearns & Wheeler said that he has been involved in this pond project for several years. He has a letter from the Army Corps of Engineers saying that they do not have jurisdiction over this work on

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excavating and enlarging the pond. They will be expanding the pond to the west and placing fill north and east of the pond. The existing pond area is 2.25 acres and they will be adding .93 acres for a total of 3.18 acres. About one-third acre of new wetlands will be created. They will be replacing two pipes under the sixth fairway with four new pipes to eliminate flooding of the fairway. They will have a low flow pipe to take from the bottom of the pond so it is cool water not warm water. Less than 10,000 cubic yards of excavated material will be brought to other portions of the site. There will be no full trucks leaving the site and there will be erosion controls and a dewatering system installed. In the fill area, some trees will be saved but others will need to be removed to accommodate the filling. The flows at the outlet from the property will be virtually unchanged except a smaller, longer three days outflow when the pond is full. This is an improvement over existing conditions. They propose to do the work in October which will lower pond levels. Mr. Ginsberg noted that other parties are working on cleaning the slit and sediment from other ponds within the Goodwives River watershed. Mr. Ferlow agreed and noted that this project will actually help that project.

Mr. Tim O'Neill of the Country Club of Darien said that they have removed about 200 cubic yards of silt from the settling pond north of this pond. Mr. Ferlow explained that the maximum allowed by the DEP is 10,000 cubic yards. The change of elevation is 14 feet maximum on the east fill area and 8 feet maximum on the north fill area. The goal is to dispose of the excavated material on site (not to achieve certain fill grades).

Mr. Charles Douglas, who owns adjacent property to the County Club on Brookside Road, noted that DEP approved the project July 5, 2002 and EPC approved the project August 1, 2001. He believes that these permits are too old and should be reopened because the rules may have changed in the interim. Mr. Ginsberg noted specifically that a Darien EPC permit is valid for 5 years, and thus this permit would be fully valid until August 1, 2006. Mr. Douglas believed the Commission should compare past permits with the current proposal. He then submitted a copy of the letter which he had sent to EPC during their public hearing process. Mr. Don Ferlow responded by noting that this project will have no impact at all to Mr. Douglas' property, which is mostly wetlands, because it is in a separate watershed area. Water from the pond and the Country Club of Darien fill areas on the golf course but do not flow towards his property.

There being no other comments from the neighbors or the Commission, Mr. Kenny made a motion to close the public hearing on this matter. That motion was seconded by Mr. Spain and unanimously approved.

Mr. Conze then read the next agenda item:

Special Permit Application #60-F, Country Club of Darien, 300 Mansfield Avenue. Proposing to reconstruct the "halfway house"; construct new staff housing; create a pool pavilion and terrace; renovate and enlarge the clubhouse kitchen; construct maintenance sheds; and perform related site development activities. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #5 as Lot #40, R-2 Zone.

Attorney Stephen Pierson said that the proposal is to enlarge the kitchen at the clubhouse in order to meet existing health codes and better serve the members. They will not be increasing membership

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as part of this application. The expansion is approximately 30' x 40' and they will have some basement storage. They will be creating a new delivery area and installing a new garbage compactor. The design will farm type motif architectural style and the cupola will be a vent in its design to look like it has been there for many years.

Mr. Pierson then explained the new pool facilities. He explained that they will have new equipment sheds and there will be a new gazebo with lattice work covers to provide some sunscreen for the children and other users of this area. There will also be a new arts & crafts pavilion which would be where golf tournament winners would be given awards. As part of this application, they are not discussing the widening of the roadway, because it is near wetlands and needs EPC review and action first. The proposed arts & crafts building will be about 450 square feet.

The proposed half-way house is a wood, one-story structure, and the existing structure is in poor structural condition. This house is proposed to be moved further from the property lines and closer to the paddle tennis courts. It will be used by golfers in the spring, summer and fall and paddle tennis players in the winter. They will sell soda, beer, hot dogs and other related items but there will be no cooking in the half-way house other than warming of hot dogs.

Ms. Sarah Kensington of 366 Mansfield then asked whether the floor of the halfway house will be the same as the paddle tennis court's height or on the ground. Mr. John McClutchey responded that the building will be moved down lower from where it is today.

Mr. Pierson then explained the proposed staff housing. He explained that the existing staff housing on the property was started in the mid 1950s when it was a golf course with a barn. They have always had staff that have lived on site, and there are now 20 people living there and about 8 to 10 people living above the pro shop. The entire Country Club of Darien property is 130+ acres and they have proposed the staff housing to be as far from the neighbors as possible. The number of staff will stay at 20 at that location. The new building will be air conditioned and will have a common room. Architect David Woods said that the existing building cannot be practically renovated. It is not safe as it is. They will have the same number of people in the staff housing and it will be designed to look like attached barn type style. It will have the roof height (ridge) of a one story addition which matches the existing ridge line of the two story structure. They propose to take the road around the paddle tennis courts on the far side from the neighbors. There will be no change to the existing living facilities above the pro shop. Mr. Pierson explained that the total number of people at the site is 30 people at the peak for the entire 130 acres. He said that they have met with the neighbors about this proposal. Mr. McClutchey added that the existing class staff housing is out of code now. They have tried to take the neighbor comments into account and address their concerns. In order to do that, they will be re-routing the driveway and providing some screening.

Ms. Elizabeth Dwyer of Buttonwood Lane said that she objects to this proposal and submitted a letter to the Commission. She had not objected to the previous plan to reconstruct the barn 10 feet from her property. She dislikes the work involving the rebuilding and relocating of the stone wall near her property line. Mr. Pierson responded that he has met with the Dwyer's attorney and is working on what will solve her problem. Ms. Forman believed that the Dwyer's problem should be cleared up before the Commission reconvenes on this matter. Mr. Bigelow said that there may also be a drainage issue related to this. Mr. Conze said that he remembers being assured by the Country Club of Darien that the project adjacent to the Dwyer property would be done nicely. Mr. Kenny

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believed that the neighbor should not have had to get an attorney in order to get this matter addressed. Attorney Bruce Hill then said he was present on behalf of the Keewaydin Hilltop Association, and his clients have great concerns about the staff housing.

The Commission then agreed with the applicant's consent to continue this matter to July 13, 2004 at 8:00 p.m. in Room 206 at Town Hall. That motion was made by Mr. Spain and seconded by Mr. Kenny and unanimously approved.

There being no other business, the public hearing was then adjourned at 11:00 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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